

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0138P

Use Tax

For the Period August 1, 1998 through May 31, 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10.1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was converted to an insurance company that dealt solely with the federal government in 1998. Purchases of equipment and supplies at that time were thought to be nontaxable based upon the exemption for purchases made for the federal government. Subsequent to that erroneous decision, taxpayer states it recalculated its liability and registered with the Indiana Department of Revenue to self assess the tax and remit it voluntarily. Taxpayer requests abatement of the penalty based upon coming forward and correcting its error.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it misinterpreted the state regulations but feels that by coming forward and correcting its error, the penalty and interest should be abated.

45 IAC 15-11-2(b) states, “Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer’s carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

Taxpayer failed to file sales tax returns for the period August 1998 through May 31, 2001 timely and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer’s protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer protests the interest assessed, however, the Department has no authority to waive interest.

FINDING

Taxpayer’s protest is denied.

CONCLUSION

Taxpayer’s protest is denied for issues I and II.